

(Del. Rev. 5/2014) Pro Se Employment Discrimination Complaint

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Jorge Santiago Aguilera

(Name of Plaintiff or Plaintiffs)

v.

Civ. Action No. 15cv881
(To be assigned by Clerk's Office)

Zachary W. Davis owner

Davis-Young Associates, Inc.
(Name of Defendant or Defendants)

COMPLAINT FOR
EMPLOYMENT DISCRIMINATION
(Pro se)

Jury Demand?

☒ Yes

☐ No

1. This action is brought pursuant to (check all spaces that apply):

- ☐ Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, *et seq.*, for employment discrimination on the basis of race, color, religion, sex, or national origin.
- ☐ Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621, *et seq.*, for employment discrimination on the basis of age. My year of birth is: _____.
- ☒ Rehabilitation Act of 1973, as amended, 29 U.S.C. §§ 701, *et seq.*, for employment discrimination on the basis of a disability by an employer which constitutes a program or activity receiving federal financial assistance.
- ☒ Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, *et seq.*, for employment discrimination on the basis of disability.

2. Plaintiff resides at 4 2nd ave.
(Street Address)

New Castle DE. 19720
(City) (County) (State) (Zip Code)
(302) 415 2550 Attach additional sheets if more than one Plaintiff.
(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at 200 Cossart Rd
(Street Address)

Chadd's Ford P.A. 19317
(City) (County) (State) (Zip Code)

Attach additional sheets if more than one Defendant.

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2015 OCT -1 PM 3:26

4. The discriminatory conduct occurred in connection with plaintiff's employment at, or application to be employed at, defendant's Zachary W. Davis place of business
 located at Davis - Young Associates, Inc.
P.O. Box 451 Montchanin DE. 19720
 (Street Address) (City) (County) (State) (Zip Code)

5. The alleged discriminatory acts occurred on 7, 11, 2014.
 (Day) (Month) (Year)

6. The alleged discriminatory practice ☒ is ☐ is not continuing.

7. On 5, 12, 2014, Plaintiff filed charges
 (Day) (Month) (Year)
 with the Department of Labor of the State of Delaware: Division Industrial Affairs,
4425 W. Market st. 3rd floor (Agency)
Delaware (Street Address) (City) (County)
19802 (State) (Zip Code), regarding defendant's alleged discriminatory conduct.

8. On 10, 08, 2015, Plaintiff filed charges
 (Day) (Month) (Year)
 with the Equal Employment Opportunity Commission of the United States regarding defendant's alleged discriminatory conduct.

9. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to-Sue letter which was received by plaintiff on: 23, 09, 2015.
 (Day) (Month) (Year)

(NOTE: ATTACH NOTICE-OF-RIGHT-TO-SUE LETTER TO THIS COMPLAINT.)

10. The alleged discriminatory acts, in this suit, concern:

- A. ☒ Failure to employ plaintiff.
- B. ☒ Termination of plaintiff's employment. Plaintiff was terminated from employment on the following date: 7-11-2014.
- C. ☐ Failure to promote plaintiff. Plaintiff was refused a promotion on the following date: _____
- D. ☐ Other acts (please specify): from January 2014 my treatment at work was different from all works, my boss degraded my assistant and my truck work. (I felt bad emotional).

11. The conduct of Defendant(s) was discriminatory because it was based on (check all that apply):

- A. ☐ Plaintiff's race
- B. ☐ Plaintiff's color
- C. ☐ Plaintiff's sex
- D. ☐ Plaintiff's religion
- E. ☐ Plaintiff's national origin
- F. ☐ Plaintiff's age
- G. ☒ Plaintiff's disability

12. A copy of the charges filed with the Department of Labor of the State of Delaware and/or the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of plaintiff's claim.

(NOTE: ATTACH A COPY OF THE CHARGES FILED WITH THE DEPARTMENT OF LABOR OF THE STATE OF DELAWARE AND/OR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION OF THE UNITED STATES TO THIS COMPLAINT.)

THEREFORE, Plaintiff asks the Court to grant such relief as may be appropriate, including but not limited to (check all that apply):

- A. ☐ Injunctive relief (specify what you want the Court to order): _____
- B. ☐ Back pay.
- C. ☐ Reinstatement to former position.
- D. ☒ Monetary damages in the amount of \$ 200,000⁰⁰ (two hundred thousand).
- E. ☒ That the Court appoint legal counsel.
- F. ☒ Such relief as may be appropriate, including costs and attorney's fees.
- G. ☐ Other (specify): _____

I/We declare under penalty of perjury that the foregoing is true and correct.

Dated: 10/01/2015

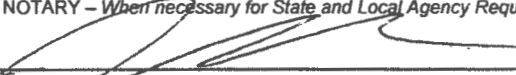
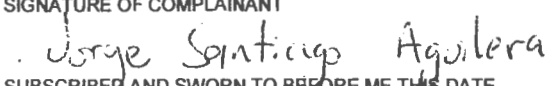

Jorge Santiago Aguilera
(Signature of Plaintiff)

(Signature of additional Plaintiff)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

JC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input checked="" type="checkbox"/> FEPA SAN120514 <input checked="" type="checkbox"/> EEOC 17C-2015-00135	
Delaware Department of Labor and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) Mr. Jorge Santiago		Home Phone (Incl. Area Code) Date of Birth (302) 415-2550 06-21-1974	
Street Address City, State and ZIP Code 4 2nd. Avenue, New Castle, DE 19720			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name DAVIS YOUNG ASSOCIATES, INC.		No. Employees, Members Phone No. (Include Area Code) 15 - 100 (302) 239-1682	
Street Address City, State and ZIP Code P.O. Box 451, Montchanin, DE 19710			
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"><input type="checkbox"/> RACE</div> <div style="width: 50%;"><input type="checkbox"/> COLOR</div> <div style="width: 50%;"><input type="checkbox"/> SEX</div> <div style="width: 50%;"><input type="checkbox"/> RELIGION</div> <div style="width: 50%;"><input type="checkbox"/> NATIONAL ORIGIN</div> <div style="width: 50%;"><input type="checkbox"/> RETALIATION</div> <div style="width: 50%;"><input type="checkbox"/> AGE</div> <div style="width: 50%;"><input checked="" type="checkbox"/> DISABILITY</div> <div style="width: 50%;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="width: 50%;"><input type="checkbox"/> OTHER (Specify)</div> </div>		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 10-24-2014 11-17-2014 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>Jurisdiction: Charging Party worked for Respondent (DE employer; 15+ employees) as a Stone Mason from July 1994 until his discharge on November 17, 2014. Charging Party asserts that he is an individual with a known disability who is able to perform the essential functions of his position either with or without a reasonable accommodation. Charging Party presented this discrimination complaint to DDOL on December 5, 2014.</p> <p>Charging Party's protected class: Disability</p> <p>Adverse employment action: Failure to accommodate, discharge</p> <p>Brief statement of allegations: Charging Party asserts that Respondent provided a light duty position as an accommodation for his disability for approximately a year and a half. Charging Party asserts that he took three weeks of leave due to his disability and, upon his return, Respondent informed him that his light duty position was no longer available.</p> <p>Respondent's explanation: Unknown.</p> <p>Applicable law(s): The Americans With Disabilities Act; Delaware Persons With Disabilities Employment Protections Act</p> <p>Comparator(s) or other specific reason(s) for alleging discrimination: N/A. J. S. A.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY - When necessary for State and Local Agency Requirements  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) JESSICA E. BLOME December 23, 2014 NOTARY PUBLIC, STATE OF DELAWARE My Commission Expires Upon Office	
Dec. 23, 2014 Date		 Charging Party Signature	

STATE OF DELAWARE
DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS – OFFICE OF ANTI-DISCRIMINATION

Jorge Santiago
4 2nd. Avenue
New Castle, DE 19720

DDOL No.: SAN120514
EEOC No.: 17C-2015-00135

vs.

DAVIS YOUNG ASSOCIATES, INC.
P.O. Box 451
Montchanin, DE 19710

FINAL DETERMINATION AND RIGHT TO SUE NOTICE

Pursuant to 19 Del. C. § 710, *et seq.*, the parties in the above-captioned matter are hereby Noticed of the Department's Final Determination and Right to Sue Notice, as follows:

No-Cause Determination and Dismissal with Corresponding Right to Sue Notice.

In this case, the Department has completed its investigation and found that there is no reasonable cause to believe that an unlawful employment practice has occurred. The Department hereby issues a No-Cause Determination and Dismissal and provides the Charging Party with a Delaware Right to Sue Notice.

This No Cause determination is based on the following facts:

The Charging Party alleges the Respondent took adverse employment action (failure to accommodate, discharge) against him based upon disability. The Respondent denied the allegations of discrimination. The Department of Labor conducted an investigation and determined that the evidence did not establish reasonable cause to believe the Respondent violated the anti-discrimination laws. On June 25, 2015, we notified the Charging Party of our preliminary findings. We gave the Charging Party an opportunity to respond.

Charging Party submitted a response; however, the response contained no information that could have resulted in a different outcome.

Therefore, we are making a finding of No Reasonable Cause.

This final determination is not intended to be construed as an endorsement of Respondent's actions, and is not intended to impact any rights Charging Party may have under other laws.

See the attached Notice of Rights.

This Final Determination is hereby issued on behalf of the Department of Labor, Division of Industrial Affairs, Office of Anti-Discrimination.



Daniel McGannon, Administrator

July 31, 2015

Delaware Department of Labor, Division of Industrial Affairs, 4425 N. Market St., Wilmington, DE 19802

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Jorge Santiago**
4 2nd. Avenue
New Castle, DE 19720

From: **Philadelphia District Office**
801 Market Street
Suite 1300
Philadelphia, PA 19107



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

17C-2015-00135

Natasha Abel,
State & Local Coordinator

(215) 440-2650

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Enclosures(s)

Spencer H. Lewis, Jr.,
District Director

September 17, 2015

(Date Mailed)

cc: **DAVIS YOUNG ASSOCIATES, INC.**
Attn: Zachary W. Davis
Owner/President
P.O. Box 451
Montchanin, DE 19710